



February 24, 2006

ENGROSSED SENATE BILL No. 27

DIGEST OF SB 27 (Updated February 23, 2006 2:24 pm - DI 110)

Citations Affected: IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-5; IC 24-3; noncode.

Synopsis: Alcohol and tobacco matters. Requires a person who trains: (1) alcohol servers; and (2) individuals who plan to train alcohol servers; to hold a trainer certificate issued by the alcohol and tobacco commission (ATC). Requires: (1) a certified trainer to renew a certificate every three years by filing a renewal application form, completing a refresher course, and paying a \$45 fee; (2) certain retailer permittees, dealer permittees, or management representatives of the retailer or dealer permittees to be trained not later than 120 days after the date the permittee receives a permit; and (3) certain retailer permittees and dealer permittees to ensure that each alcohol server is trained not later than 120 days from the date the alcohol server begins employment. (Current law requires a retail permittee, dealer permittee, or management representative to be trained not later than 90 days after the date the permittee receives the permit and an alcohol server be trained not later than 90 days after the date of employment.) Requires: (1) the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits; (2) the ATC to approve and establish training programs; and (3) training programs to provide a server certificate to individuals who successfully complete the program. Allows the ATC to: (1) observe
(Continued next page)

Effective: Upon passage; July 1, 2006.

Long

(HOUSE SPONSORS — STUTZMAN, KUZMAN, BELL)

January 9, 2006, read first time and referred to Committee on Rules and Legislative Procedure.

January 10, 2006, amended; reassigned to Committee on Homeland Security, Utilities, and Public Policy.

January 24, 2006, reported favorably — Do Pass.

January 30, 2006, read second time, ordered engrossed. Engrossed.

January 31, 2006, read third time, passed. Yeas 47, nays 3.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Public Policy and Veterans Affairs.

February 23, 2006, amended, reported — Do Pass.

ES 27—LS 6066/DI 13+



C
o
p
y

training at any time; and (2) adopt rules to carry out the training and certification requirements. Changes the deadline by which permittees and alcohol servers must be trained from January 31, 2008, to January 1, 2009. Requires: (1) a liquor dealer, beginning January 1, 2007, to display liquor in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age, unless the liquor dealer meets certain requirements; and (2) dealer permittees to have at least one employee who holds an employee's permit and, beginning January 1, 2007, to ensure that a sales clerk working on the license premises receives training. Provides that: (1) the ATC may adopt rules to implement these requirements; (2) an alcoholic beverage permit of any type may not be issued to an entity that is not domiciled or admitted to do business in Indiana; (3) any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages; and (4) a permittee has only powers expressly granted by statute or rules of the ATC. Allows a holder of an alcoholic beverage permit to sell or offer to sell an alcoholic beverage on credit to an individual who does not hold an alcoholic beverage permit. Provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the ATC or the law. Requires the ATC to issue a permit to the state fair commission. Allows for extended time for alcohol sales on New Year's Eve if New Year's Eve falls on a Sunday. Allows the ATC to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Defines as a club an association or corporation in a consolidated city that has been in existence for 25 years, held a bingo license for ten years, and does not allow persons under the age of 18 to be members, guests, or workers. Allows a person at least 18 years of age and under 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (1) the first conviction occurred less than ten years before the date of the permit application; and (2) the individual completed the sentence for the second conviction less than two years before the permit application. Provides that if an individual has at least three convictions for operating while intoxicated and the individual completed the sentence for the last conviction more than ten years before the permit application, the individual may apply to the ATC for a permit, but the ATC may grant or deny the application. Provides for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. Makes changes concerning certain sells and deliveries of beer by holders of brewer's permits. Makes changes to the cigarette fair trade act. Repeals provisions that: (1) require an individual, partnership, corporation, limited partnership, or limited liability company to meet Indiana residency requirements to obtain a retailer's, dealer's or wholesaler's permit; (2) prohibit the issuance of a retailer's, dealer's, or wholesaler's permit to a partnership unless each member of the partnership possesses the same qualifications required of an individual permit applicant; and (3) exempt certain entities from the Indiana residency requirement. Repeals a provision concerning certain certification requirements.

**C
o
p
y**



February 24, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 27

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-1-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction.~~ (a)
3 This title is an exercise of the police powers of the state.

4 (b) The classifications and differentiations made in this title are real
5 and are actually and substantially related to the accomplishment of the
6 purposes of this title. ~~The provisions of this title shall be liberally~~
7 ~~construed so as to effectuate the purposes of this title.~~

8 (c) A permittee has only powers expressly granted by statute
9 and the rules of the commission.

10 (d) In accordance with IC 1-1-1-8, if any provision of this title
11 is held to be invalid or unconstitutional, it is the intention of the
12 state that the remaining provisions of the affected chapter be
13 construed to:

14 (1) further limit rather than expand commerce in alcoholic
15 beverages; and

16 (2) maintain a transparent and accountable three (3) tier
17 system of alcoholic beverage distribution by a person with a

ES 27—LS 6066/DI 13+



C
o
p
y

substantial presence in Indiana.

SECTION 2. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 40.5. "Sales clerk" means a person who:**

(1) rings up; or

(2) otherwise records;

an alcoholic beverage sale in the course of the person's employment in a dealer establishment.

SECTION 3. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs, displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

(1) is published at least once a week;

(2) regularly publishes information of current news interest to the community; and

(3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell,

**C
o
p
y**



give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title.** It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. **When a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.**

(g) The commission may not prohibit the advertisement of:

- (1) alcoholic beverages; or
- (2) a place where alcoholic beverages may be obtained; in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 4. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

- (1) are described in section 25(a) of this chapter;
- (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
- (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

(e) Notwithstanding subsection (b), if December 31 (New Year's

C
o
p
y



1 **Eve) is on a Sunday, it is lawful for the holder of a retailer's permit**
 2 **to sell the appropriate alcoholic beverages on Sunday, December**
 3 **31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local**
 4 **time, the following day.**

5 SECTION 5. IC 7.1-3-1-25 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county
 7 listed in this subsection that by itself or in combination with any other
 8 municipal body acquires by ownership or by lease any stadium,
 9 exhibition hall, auditorium, theater, convention center, or civic center
 10 may permit the retail sale of alcoholic beverages upon the premises if
 11 the governing board of the facility first applies for and secures the
 12 necessary permits as required by this title. The cities and counties to
 13 which this subsection applies are as follows:

14 (1) A consolidated city or its county.

15 (2) A city of the second class.

16 (3) A county having a population of more than one hundred
 17 eighty-two thousand seven hundred ninety (182,790) but less than
 18 two hundred thousand (200,000).

19 (4) A county having a population of more than one hundred
 20 seventy thousand (170,000) but less than one hundred eighty
 21 thousand (180,000).

22 (5) A county having a population of more than one hundred thirty
 23 thousand (130,000) but less than one hundred forty-five thousand
 24 (145,000).

25 (6) A county having a population of more than three hundred
 26 thousand (300,000) but less than four hundred thousand
 27 (400,000).

28 (7) A city having a population of more than five thousand one
 29 hundred thirty-five (5,135) but less than five thousand two
 30 hundred (5,200).

31 (8) A county having a population of more than one hundred
 32 twenty thousand (120,000) but less than one hundred thirty
 33 thousand (130,000).

34 (9) A county having a population of more than one hundred eighty
 35 thousand (180,000) but less than one hundred eighty-two
 36 thousand seven hundred ninety (182,790).

37 (b) A county having a population of more than four hundred
 38 thousand (400,000) but less than seven hundred thousand (700,000) or
 39 a township located in such a county that has established a public park
 40 with a golf course within its jurisdiction under IC 36-10-3 or
 41 IC 36-10-7 may be issued a permit for the retail sale of alcoholic
 42 beverages on the premises of any community center within the park,

C
O
P
Y



including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that

~~(1) has a population of:~~

~~(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or~~

~~(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and~~

~~(2) owns a golf course~~

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c),

C
o
p
y



IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).

(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 6. IC 7.1-3-1.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.2. As used in this chapter, "applicant" means a person who applies for a trainer certificate under this chapter to train:**

(1) alcohol servers; and

(2) individuals who plan to become certified trainers;

on the selling, serving, and consumption of alcoholic beverages.

SECTION 7. IC 7.1-3-1.5-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.3. As used in this chapter, "certified trainer" means a person who is issued a trainer certificate under section 4.6 of this chapter.**

SECTION 8. IC 7.1-3-1.5-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. As used in this chapter, "server certificate" means a certificate issued by the commission under this chapter to an individual who completes a program**

C
o
p
y



established or approved under section 6 of this chapter.

SECTION 9. IC 7.1-3-1.5-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.4. As used in this chapter, "trainer certificate" means a certificate issued by the commission under this chapter to an applicant who meets the requirements under section 4.6 of this chapter.**

SECTION 10. IC 7.1-3-1.5-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:**

- (1) files the application and pays the fees established by the commission under section 5 of this chapter;**
- (2) completes a program established or approved under section 6 of this chapter; and**
- (3) meets the requirements under this chapter and rules adopted by the commission.**

SECTION 11. IC 7.1-3-1.5-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.8. A certified trainer may train:**

- (1) alcohol servers; and**
- (2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcoholic beverages.**

SECTION 12. IC 7.1-3-1.5-5, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 5. (a) The commission shall adopt rules under IC 4-22-2 to establish:**

- (1) an application form;**
- (2) standards; and**
- (3) fees;**

for certification of a program under this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to otherwise carry out this chapter.

SECTION 13. IC 7.1-3-1.5-6, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. The commission shall require the following standards for certification of a program under this chapter: (a) The commission shall:**

- (1) establish a program; and**
- (2) approve a program established by a third party that meets the requirements of this chapter;**

that is designed to educate alcohol servers and individuals who

**C
o
p
y**



1 plan to become certified trainers on the selling, serving, and
 2 consumption of alcoholic beverages.

3 (b) A program established or approved under subsection (a)
 4 must include the following:

5 (1) Training by an instructor who:

6 (A) has knowledge in the subject areas described in this
 7 section; and

8 (B) is a certified trainer under this chapter.

9 (2) Information on specific subject areas as required by the
 10 commission.

11 (3) A minimum of at least two (2) hours of training to complete
 12 the program.

13 (4) Information on:

14 (A) state laws and rules regarding the sale and service of
 15 alcoholic beverages;

16 (B) the classification of alcohol as a depressant and the effect
 17 of alcohol on the human body, particularly on the ability to
 18 drive a motor vehicle;

19 (C) the effects of alcohol:

20 (i) when taken with commonly used prescription and
 21 nonprescription drugs; and

22 (ii) on human behavior;

23 (D) methods of:

24 (i) identifying and refusing to serve or sell alcoholic
 25 beverages to an underage or intoxicated person; and

26 (ii) handling situations involving an underage or intoxicated
 27 person;

28 (E) methods for properly and effectively:

29 (i) checking the identification of an individual;

30 (ii) identifying an illegal identification of an individual; and

31 (iii) handling situations involving individuals who have
 32 provided illegal identification;

33 (F) security and law enforcement issues regarding the sale and
 34 service of alcoholic beverages; and

35 (G) recognizing certain behavior to assess the amount of
 36 alcohol an individual:

37 (i) has consumed; and

38 (ii) may safely consume.

39 (5) One (1) or both of the following:

40 (A) A written test.

41 (B) An oral test.

42 SECTION 14. IC 7.1-3-1.5-8, AS ADDED BY P.L.161-2005,

C
o
p
y



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A **trainer** certificate issued under this chapter expires ~~at a time and date designated by the commission; three~~ **(3) years after the date the trainer certificate was issued.**

(b) The commission shall adopt rules to establish:

- (1) an application form; and
- (2) fees;

for the renewal of a certificate under this chapter:

(c) ~~(b)~~ The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate. The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the commission, the certificate holder is not subject to a sanction for failure to renew if, once notice is received from the commission, the certificate is renewed within forty-five (45) days after the receipt of the notice. **notify a:**

- (1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and**
- (2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;**

of the renewal requirements for a trainer certificate under this chapter.

SECTION 15. IC 7.1-3-1.5-9, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. To renew a **trainer** certificate under this chapter, the ~~certificate holder~~ **certified trainer** must:

- (1) file the renewal application established and provided by the commission; ~~and~~
- (2) pay ~~the a~~ renewal fee in the amount established by the ~~commission; of forty-five dollars (\$45); and~~
- (3) complete a refresher course established or approved by the commission;**

not later than the expiration date of the **trainer** certificate.

SECTION 16. IC 7.1-3-1.5-12, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. A person who ~~operates a program~~ **trains:**

- (1) alcohol servers; or**
- (2) individuals who plan to become certified trainers;**

without a **trainer** certificate under this chapter commits a Class B infraction.

SECTION 17. IC 7.1-3-1.5-13, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C
o
p
y



JULY 1, 2006]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a program ~~certified under this established or approved under section 6 of this~~ chapter not later than ~~ninety (90)~~ **one hundred twenty (120)** days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 6 of this chapter ~~as required by the commission; every three (3) years after the date the alcohol server completes a program;~~ and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, ~~or a dealer permittee, or a management representative of a retailer or dealer permittee~~ must complete a program ~~certified under established or approved under section 6 of~~ this chapter:

(1) not later than ~~ninety (90)~~ **one hundred twenty (120)** days after the date:

~~(1) (A)~~ **(A)** the dealer permittee is issued a permit described in section 2 of this chapter; or

~~(2) (B)~~ **(B)** the retailer permittee is issued a permit described in section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a program.

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the requirements under subsections (a) and (b).

~~(c)~~ **(d)** The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 18. IC 7.1-3-1.5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. A program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the**

**C
O
P
Y**



program.

SECTION 19. IC 7.1-3-1.5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. The commission may attend and observe training by a certified trainer under a program established or approved under section 6 of this chapter at any time.**

SECTION 20. IC 7.1-3-1.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 21. IC 7.1-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application.~~ The commission may issue a brewer's permit to a person who desires to commercially manufacture beer **in Indiana.**

SECTION 22. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership ~~all the partners of which are bona fide residents of Indiana;~~ **domiciled in or admitted to do business in Indiana;**
- (3) a limited liability company ~~all the members of which are bona fide residents of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana. ~~and having authority under its charter to manufacture or sell beer.~~

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana;
- (3) a limited liability company ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana.

SECTION 23. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do **only** the following:

C
o
p
y



- 1 (1) Manufacture beer.
- 2 (2) Place beer in containers or bottles.
- 3 (3) Transport beer.
- 4 (4) Sell and deliver beer to a person holding a beer wholesaler's
- 5 permit issued under IC 7.1-3-3.
- 6 (5) If the brewer's brewery manufactures not more than twenty
- 7 thousand (20,000) barrels of beer in a calendar year, do the
- 8 following:
 - 9 (A) Sell and deliver beer to a person holding a retailer or a
 - 10 dealer permit under this title.
 - 11 (B) Be the proprietor of a restaurant.
 - 12 (C) Hold a beer retailer's permit, a wine retailer's permit, or a
 - 13 liquor retailer's permit for a restaurant established under clause
 - 14 (B).
 - 15 (D) Transfer beer directly from the brewery to the restaurant
 - 16 by means of:
 - 17 (i) bulk containers; or
 - 18 (ii) a continuous flow system.
 - 19 (E) Install a window between the brewery and an adjacent
 - 20 restaurant that allows the public and the permittee to view both
 - 21 premises.
 - 22 (F) Install a doorway or other opening between the brewery
 - 23 and an adjacent restaurant that provides the public and the
 - 24 permittee with access to both premises.
 - 25 (G) Sell the brewery's beer by the glass for consumption on the
 - 26 premises. Brewers permitted to sell beer by the glass under
 - 27 this clause must furnish the minimum food requirements
 - 28 prescribed by the commission.
 - 29 **(H) Sell and deliver beer to a consumer at the plant of the**
 - 30 **brewer or at the residence of the consumer. The delivery**
 - 31 **to a consumer shall be made only in a quantity at any one**
 - 32 **(1) time of not more than one-half (½) barrel, but the beer**
 - 33 **may be contained in bottles or other permissible**
 - 34 **containers.**
 - 35 (6) If the brewer's brewery manufactures more than twenty
 - 36 thousand (20,000) barrels of beer in a calendar year, own a
 - 37 portion of the corporate stock of another brewery that:
 - 38 (A) is located in the same county as the brewer's brewery;
 - 39 (B) manufactures less than twenty thousand (20,000) barrels
 - 40 of beer in a calendar year; and
 - 41 (C) is the proprietor of a restaurant that operates under
 - 42 subdivision (5).

C
o
p
y



(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half ($\frac{1}{2}$) barrel; but the beer may be contained in bottles or other permissible containers.

(8) (7) Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

(9) (8) Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(10) (9) For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 24. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer's permit must have at least one (1) employee who:**

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18-9.

(b) Beginning January 1, 2007, a holder of a beer dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 25. IC 7.1-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. Persons Eligible for Permits.** The commission may issue a temporary beer permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c);~~ ~~(h); and (m) and the residency requirements provided in IC 1971,~~ ~~7.1-3-21-3;~~ **IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and IC 7.1-3-4-2(a)(13)** shall not apply to an applicant for a temporary beer

C
o
p
y



1 permit.

2 SECTION 26. IC 7.1-3-10-14 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply**
5 **to a package liquor store.**

6 **(b) Beginning January 1, 2007, and except as provided in**
7 **subsection (c), a holder of a liquor dealer's permit must display**
8 **liquor for sale in a clearly designated area that forbids the**
9 **presence of a minor unless the minor is accompanied by a parent**
10 **or guardian who is at least twenty-one (21) years of age. Other**
11 **alcoholic beverages may be displayed in a designated area where**
12 **liquor is displayed under this subsection.**

13 **(c) The holder of a liquor dealer's permit is not required to**
14 **comply with subsection (b) if the holder of the liquor dealer's**
15 **permit:**

16 **(1) displays liquor in an area that does not exceed twenty-five**
17 **(25) linear feet; and**

18 **(2) uses at least one (1) of the following security measures:**

19 **(A) The liquor is displayed behind a retail counter or in a**
20 **locked display case.**

21 **(B) Each bottle of liquor for sale on the licensed premises**
22 **has a security cap.**

23 **(C) The liquor is displayed adjacent to a pharmacy**
24 **counter.**

25 **(d) Liquor may not be displayed within thirty (30) feet of a**
26 **public entrance of a licensed premises.**

27 **(e) The commission may adopt rules under IC 4-22-2 to**
28 **implement this section.**

29 SECTION 27. IC 7.1-3-10-15 IS ADDED TO THE INDIANA
30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply**
32 **to a package liquor store.**

33 **(b) A holder of a liquor dealer's permit must have at least one**
34 **(1) employee who:**

35 **(1) works on the licensed premises; and**

36 **(2) holds an employee's permit under IC 7.1-3-18.**

37 **(c) Beginning January 1, 2007, a holder of a liquor dealer's**
38 **permit must ensure that a sales clerk working on the licensed**
39 **premises receives training approved by the commission and**
40 **provided by an employee described in subsection (b).**

41 **(d) The commission may adopt rules under IC 4-22-2 to**
42 **implement this section.**



C
o
p
y

SECTION 28. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commission may issue a farm winery permit to a person who is the proprietor of a farm winery and who desires to commercially manufacture wine. A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. ~~IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter.~~ The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.

SECTION 29. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a wine dealer's permit must have at least one (1) employee who:**

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18.

(b) Beginning January 1, 2007, a holder of a wine dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 30. IC 7.1-3-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. ~~Persons Eligible for Permits.~~ The commission may issue a temporary wine permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, IC 7.1-3-4-2(c), (h), and (m) and the residency requirements provided in IC 1971, 7.1-3-21-3,~~ shall not apply to an applicant for a temporary wine permit.

SECTION 31. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:

(1) a sales clerk in a:

(A) drugstore;

(B) grocery store; or

(C) package liquor store; or as

(2) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~

(b) A permit authorized by this section is conditioned upon the

C
o
p
y



1 compliance by the holder with reasonable rules relating to the permit
2 which the commission may prescribe from time to time.

3 (c) A permit issued under this section entitles its holder to work for
4 any lawful employer. However, a person may work without an
5 employee's permit for thirty (30) days from the date shown on a receipt
6 for a cashier's check or money order payable to the commission for that
7 person's employee's permit application.

8 (d) A person who, for a package liquor store or retail establishment,
9 is:

10 (1) the sole proprietor;

11 (2) a partner, a general partner, or a limited partner in a
12 partnership or limited partnership that owns the business
13 establishment;

14 (3) a member of a limited liability company that owns the
15 business establishment; or

16 (4) a stockholder in a corporation that owns the business
17 establishment;

18 is not required to obtain an employee's permit in order to perform any
19 of the acts listed in subsection (a).

20 (e) An applicant may declare on the application form that the
21 applicant will use the employee's permit only to perform volunteer
22 service that benefits a nonprofit organization. It is unlawful for an
23 applicant who makes a declaration under this subsection to use an
24 employee's permit for any purpose other than to perform volunteer
25 service that benefits a nonprofit organization.

26 (f) ~~An applicant is not entitled to~~ **The commission may not issue**
27 ~~an employee's permit if: (1) the~~ **to an applicant while the applicant is**
28 ~~serving a sentence for a conviction for operating while intoxicated,~~
29 ~~including any term of probation or parole.~~

30 ~~(2) the~~

31 **(g) The commission may not issue an employee's permit to an**
32 **applicant who has more than one (1) but less than three (3) two (2)**
33 **unrelated convictions for operating while intoxicated and less than two**
34 **(2) years have elapsed after the applicant completed the applicant's**
35 **sentence for a conviction for operating while intoxicated; including any**
36 **term of probation or parole; or if:**

37 **(1) the first conviction occurred less than ten (10) years before**
38 **the date of the applicant's application for the permit; and**

39 **(2) the applicant completed the sentence for the second**
40 **conviction, including any term of probation or parole, less**
41 **than two (2) years before the date of the applicant's**
42 **application for the permit.**

C
o
p
y



~~(3) the~~

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit.

~~(g)~~ **(i)** The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee ~~becomes ineligible for the issuance of an employee's permit under subsection (f):~~ **is convicted of operating while intoxicated after the issuance of the permit.**

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

(j) This section does not apply to a dining car, boat, or airline employee.

SECTION 32. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs: General Requirements.~~ **(a)** In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

~~(a)~~ **(1)** It shall have been organized in good faith under authority of law.

~~(b)~~ **(2)** It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed.

~~(c)~~ **(3)** It shall have maintained, in good faith, a membership roll for the three (3) year period.

~~(d)~~ **(4)** It shall have a paid-up membership of more than fifty (50) members at the time the application is filed.

~~(e)~~ **(5)** It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like.

~~(f)~~ **(6)** It shall not be operated for pecuniary gain.

~~(g)~~ **(7)** The property and the advantages of the organization shall belong to its members. ~~and~~

~~(h)~~ **(8)** It shall maintain an establishment provided with special space and ~~accommodations~~ **accommodations** where, in

C
o
p
y



consideration of payment, food, with or without lodging, is habitually served.

(b) An association or a corporation located within a consolidated city is considered a club if the association or corporation:

- (1) has held an annual bingo license issued by the state for at least ten (10) consecutive years;
- (2) has been in existence in Indiana for at least twenty-five (25) years;
- (3) does not allow a person less than eighteen (18) years of age to be a member, a guest, a worker, or an operator; and
- (4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and (a)(8).

SECTION 33. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair.~~ (a) The commission shall ~~not~~ issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds ~~during the period of the Indiana State Fair.~~ to the Indiana state fair commission.

(b) The holder of a permit under this section is:

- (1) entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;
- (2) entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
- (3) entitled to receive the permit directly from the commission without local board approval;
- (4) not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) entitled to allow a minor to be present in the places where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1.

C
O
P
Y



SECTION 34. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.**

SECTION 35. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

(1) at least eighteen (18) years of age; and
(2) less than twenty-one (21) years of age;
to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

(1) occur under the direction of an enforcement officer vested with full police powers and duties; and
(2) be a part of the enforcement action.

SECTION 36. IC 7.1-5-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. ~~Credit Sales Prohibited:~~ (a) This section does not apply to a permittee that sells or offers to sell an alcoholic beverage to an individual who does not hold a permit under this title.**

(b) It is unlawful for a permittee to sell, offer to sell, purchase, or receive an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(c) This section ~~shall~~ does not prohibit:

(1) a permittee from crediting to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale;
(2) ~~This section shall not prohibit~~ a permittee from refunding to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee;
(3) ~~This section shall not prohibit~~ a manufacturer from extending

C
o
p
y



usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state; or

(4) ~~This section shall not prohibit~~ a distiller or a liquor or wine wholesaler from extending credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only.

SECTION 37. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 23. (a) It is unlawful for a person who is the proprietor of a package liquor store, drug store, or grocery store to allow a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale.**

(b) It is unlawful for a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale in a:

(1) drug store;

(2) grocery store; or

(3) package liquor store.

SECTION 38. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) It is a Class A infraction for a retailer or distributor ~~with intent to injure competitors or destroy or substantially lessen competition~~, to offer to sell or sell at retail or wholesale cigarettes at less than the cost to him: the retailer or distributor. The department may do either of the following if a retailer or a distributor violates this subsection:**

(1) Revoke or suspend the:

(A) registration certificate held by ~~such a~~ the distributor under IC 6-7-1; may be revoked; by the department or

(B) tobacco certificate held by the retailer; for the balance of the term thereof: for a period of time as determined by the department.

(2) Impose a civil penalty under IC 7.1-3-18.5.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

C
o
p
y



(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 7.1-3-1.5-7; IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5; IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7; IC 24-3-2-7; IC 24-3-2-11.

SECTION 40. P.L.161-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 4. **(a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

~~(a)~~ **(c)** As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

~~(b)~~ **(d)** As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2. ~~as added by this act.~~

~~(c)~~ As used in this SECTION, "program" has the meaning set forth in ~~IC 7.1-3-1.5-3~~, as added by this act.

~~(d)~~ **(e)** As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4. ~~as added by this act.~~

(f) As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4.4, as added by this act.

~~(e)~~ **(g)** Notwithstanding IC 7.1-3-1.5-12, ~~as added by this act~~, a person who is operating a program before July 1, 2005, training alcohol servers or individuals who plan to become certified trainers before July 1, 2006, may continue to operate the program train alcohol servers or individuals who plan to become certified trainers without a certificate issued under IC 7.1-3-1.5 as added by this act, pending the processing of an application for a **trainer** certificate under this SECTION.

~~(f)~~ **(h)** The person described in subsection ~~(e)~~ **(g)** may submit to the commission an application for a **trainer** certificate to operate a program under IC 7.1-3-1.5. ~~as added by this act.~~ To be entitled to continue operating training without a **trainer** certificate under subsection ~~(e)~~ **(g)**, the person must submit the application before March 1, 2006: 2007.

~~(g)~~ **(i)** The person described in subsection ~~(e)~~ **(g)** shall cease operating a program training alcohol servers and individuals who plan to become certified trainers if:

- (1) the person fails to submit an application within the time allowed under subsection ~~(f)~~ **(h)**; or

C
o
p
y



(2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

~~(h)~~ **(j)** Notwithstanding IC 7.1-3-1.5-13: ~~as added by this act:~~

(1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program ~~certified established or approved~~ under ~~IC 7.1-3-1.5~~, **IC 7.1-3-1.5-6**, as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~; **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the alcohol server begins employment at the establishment; whichever is later; and

(2) a retailer permittee, ~~or~~ dealer permittee, **or a management representative of a retailer or dealer permittee** must complete a program ~~certified~~ **established or approved** under ~~IC 7.1-3-1.5~~, **IC 7.1-3-1.5-6**, as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~; **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-1.5-12; whichever is later.

~~(i)~~ **(k)** This SECTION expires December 31, ~~2009~~; **2010**.

SECTION 41. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) Notwithstanding IC 7.1-3-1.5, as amended by this act, a person may be certified by the alcohol and tobacco commission to train alcohol servers and individuals who plan to become certified trainers without meeting the requirements under IC 7.1-3-1.5, as amended by this act, before July 1, 2007.

(d) This SECTION expires January 1, 2008.

SECTION 42. An emergency is declared for this act.

C
o
p
y



SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 27 and that Senator Long be substituted therefor.

GARTON

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 27, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Utilities, and Public Policy.

(Reference is to SB 27 as introduced.)

GARTON, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Senate Bill No. 27, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 27 as printed January 11, 2006.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 27, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction.~~ (a) This title is an exercise of the police powers of the state.

(b) The classifications and differentiations made in this title are real and are actually and substantially related to the accomplishment of the purposes of this title. ~~The provisions of this title shall be liberally construed so as to effectuate the purposes of this title.~~

(c) ~~A permittee has only powers expressly granted by statute and the rules of the commission.~~

(d) ~~In accordance with IC 1-1-1-8, if any provision of this title is held to be invalid or unconstitutional, it is the intention of the state that the remaining provisions of the affected chapter be construed to:~~

- (1) ~~further limit rather than expand commerce in alcoholic beverages; and~~
- (2) ~~maintain a transparent and accountable three (3) tier system of alcoholic beverage distribution by a person with a substantial presence in Indiana.~~

SECTION 2. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 40.5. "Sales clerk" means a person who:

- (1) rings up; or
- (2) otherwise records;

an alcoholic beverage sale in the course of the person's employment in a dealer establishment.

SECTION 3. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs, displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

- (1) is published at least once a week;

ES 27—LS 6066/DI 13+



C
o
p
y

(2) regularly publishes information of current news interest to the community; and

(3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title**. It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. **When a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.**

(g) The commission may not prohibit the advertisement of:

(1) alcoholic beverages; or

(2) a place where alcoholic beverages may be obtained;

in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 4. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee,

C
O
P
Y



unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

- (1) are described in section 25(a) of this chapter;
- (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
- (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.

SECTION 5. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).



C
o
p
y

(4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

C
O
P
Y



(e) A city that

(1) has a population of:

(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or

(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and

(2) owns a golf course

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).

(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

C
o
p
y



(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued."

Page 2, line 24, delete "alcohol" and insert "**alcoholic**".

Page 6, between lines 11 and 12, begin a new paragraph and insert: "SECTION 21. IC 7.1-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application~~. The commission may issue a brewer's permit to a person who desires to commercially manufacture beer **in Indiana**."

SECTION 22. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership ~~all the partners of which are bona fide residents of Indiana;~~ **domiciled in or admitted to do business in Indiana;**
- (3) a limited liability company ~~all the members of which are bona fide residents of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana. ~~and having authority under its charter to manufacture or sell beer.~~

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana;
- (3) a limited liability company ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana.

SECTION 23. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do **only** the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.



C
o
p
y

- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:
 - (A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.
 - (B) Be the proprietor of a restaurant.
 - (C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).
 - (D) Transfer beer directly from the brewery to the restaurant by means of:
 - (i) bulk containers; or
 - (ii) a continuous flow system.
 - (E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.
 - (F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.
 - (G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.
 - (H) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (½) barrel, but the beer may be contained in bottles or other permissible containers.**
- (6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:
 - (A) is located in the same county as the brewer's brewery;
 - (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
 - (C) is the proprietor of a restaurant that operates under subdivision (5).
- (7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer**

C
o
p
y



shall be made only in a quantity at any one ~~(1)~~ time of not more than one-half ($\frac{1}{2}$) barrel, but the beer may be contained in bottles or other permissible containers.

~~(8)~~ (7) Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

~~(9)~~ (8) Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

~~(10)~~ (9) For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 24. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer's permit must have at least one (1) employee who:**

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18-9.

(b) Beginning January 1, 2007, a holder of a beer dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 25. IC 7.1-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. ~~Persons Eligible for Permits.~~** The commission may issue a temporary beer permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c), (h), and (m)~~ and the residency requirements provided in ~~IC 1971, 7.1-3-21-3, IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and IC 7.1-3-4-2(a)(13)~~ shall not apply to an applicant for a temporary beer permit.

SECTION 26. IC 7.1-3-10-14 IS ADDED TO THE INDIANA



C
o
p
y

CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply to a package liquor store.**

(b) Beginning January 1, 2007, and except as provided in subsection (c), a holder of a liquor dealer's permit must display liquor for sale in a clearly designated area that forbids the presence of a minor unless the minor is accompanied by a parent or guardian who is at least twenty-one (21) years of age. Other alcoholic beverages may be displayed in a designated area where liquor is displayed under this subsection.

(c) The holder of a liquor dealer's permit is not required to comply with subsection (b) if the holder of the liquor dealer's permit:

- (1) displays liquor in an area that does not exceed twenty-five (25) linear feet; and**
- (2) uses at least one (1) of the following security measures:**
 - (A) The liquor is displayed behind a retail counter or in a locked display case.**
 - (B) Each bottle of liquor for sale on the licensed premises has a security cap.**
 - (C) The liquor is displayed adjacent to a pharmacy counter.**

(d) Liquor may not be displayed within thirty (30) feet of a public entrance of a licensed premises.

(e) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 27. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply to a package liquor store.**

(b) A holder of a liquor dealer's permit must have at least one (1) employee who:

- (1) works on the licensed premises; and**
- (2) holds an employee's permit under IC 7.1-3-18.**

(c) Beginning January 1, 2007, a holder of a liquor dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (b).

(d) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 28. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. The commission may**

**C
O
P
Y**



issue a farm winery permit to a person who is the proprietor of a farm winery and who desires to commercially manufacture wine. A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. ~~IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter.~~ The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.

SECTION 29. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a wine dealer's permit must have at least one (1) employee who:**

- (1) works on the licensed premises; and**
- (2) holds an employee's permit under IC 7.1-3-18.**

(b) Beginning January 1, 2007, a holder of a wine dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 30. IC 7.1-3-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. ~~Persons Eligible for Permits.~~** The commission may issue a temporary wine permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, IC 7.1-3-4-2(c), (h), and (m) and the residency requirements provided in IC 1971, 7.1-3-21-3,~~ shall not apply to an applicant for a temporary wine permit.

SECTION 31. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:**

- (1) a sales clerk in a:**
 - (A) drugstore;**
 - (B) grocery store; or**
 - (C) package liquor store; or as**
- (2) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~**

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

C
o
p
y



(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) ~~An applicant is not entitled to~~ **The commission may not issue an employee's permit if: (1) the to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.**

~~(2) the~~

(g) The commission may not issue an employee's permit to an applicant who has more than one (1) but less than three (3) two (2) unrelated convictions for operating while intoxicated and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated; including any term of probation or parole; or if:

- (1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and**
- (2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.**

~~(3) the~~

(h) If an applicant for an employee's permit has at least three (3)

C
O
P
Y



unrelated convictions for operating while intoxicated **and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit.**

~~(g)~~ **(i)** The commission shall revoke a permit issued to an employee under this section if:

- (1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or
- (2) the employee ~~becomes ineligible for the issuance of an employee's permit under subsection (f);~~ **is convicted of operating while intoxicated after the issuance of the permit.**

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

(j) This section does not apply to a dining car, boat, or airline employee.

SECTION 32. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs: General Requirements.~~ **(a)** In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

- ~~(a)~~ **(1)** It shall have been organized in good faith under authority of law.
- ~~(b)~~ **(2)** It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed.
- ~~(c)~~ **(3)** It shall have maintained, in good faith, a membership roll for the three (3) year period.
- ~~(d)~~ **(4)** It shall have a paid-up membership of more than fifty (50) members at the time the application is filed.
- ~~(e)~~ **(5)** It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like.
- ~~(f)~~ **(6)** It shall not be operated for pecuniary gain.
- ~~(g)~~ **(7)** The property and the advantages of the organization shall belong to its members. ~~and~~
- ~~(h)~~ **(8)** It shall maintain an establishment provided with special space and ~~accommodations~~ **accommodations** where, in consideration of payment, food, with or without lodging, is habitually served.

C
O
P
Y



(b) An association or a corporation located within a consolidated city is considered a club if the association or corporation:

- (1) has held an annual bingo license issued by the state for at least ten (10) consecutive years;
- (2) has been in existence in Indiana for at least twenty-five (25) years;
- (3) does not allow a person less than eighteen (18) years of age to be a member, a guest, a worker, or an operator; and
- (4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and (a)(8).

SECTION 33. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair.~~

(a) The commission shall ~~not~~ issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds ~~during the period of the Indiana State Fair.~~ to the Indiana state fair commission.

(b) The holder of a permit under this section is:

- (1) entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;
- (2) entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
- (3) entitled to receive the permit directly from the commission without local board approval;
- (4) not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) entitled to allow a minor to be present in the places where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1.

SECTION 34. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

C
o
p
y



1, 2006]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.**

SECTION 35. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

- (1) at least eighteen (18) years of age; and**
- (2) less than twenty-one (21) years of age;**

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

- (1) occur under the direction of an enforcement officer vested with full police powers and duties; and**
- (2) be a part of the enforcement action.**

SECTION 36. IC 7.1-5-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. ~~Credit Sales Prohibited.~~ (a) This section does not apply to a permittee that sells or offers to sell an alcoholic beverage to an individual who does not hold a permit under this title.**

(b) It is unlawful for a permittee to sell, offer to sell, purchase, or receive an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(c) This section ~~shall~~ does not prohibit:

- (1) a permittee from crediting to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale;**
- (2) This section shall not prohibit a permittee from refunding to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee;**
- (3) This section shall not prohibit a manufacturer from extending usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state**

**C
O
P
Y**



when the alcoholic beverages are actually shipped to a point outside this state; or

(4) ~~This section shall not prohibit~~ a distiller or a liquor or wine wholesaler from extending credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only.

SECTION 37. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 23. (a) It is unlawful for a person who is the proprietor of a package liquor store, drug store, or grocery store to allow a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale.**

(b) It is unlawful for a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale in a:

- (1) drug store;**
- (2) grocery store; or**
- (3) package liquor store.**

SECTION 38. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) It is a Class A infraction for a retailer or distributor with intent to injure competitors or destroy or substantially lessen competition, to offer to sell or sell at retail or wholesale cigarettes at less than the cost to him: the retailer or distributor. The department may do either of the following if a retailer or a distributor violates this subsection:**

(1) Revoke or suspend the:

(A) registration certificate held by ~~such a~~ the distributor under IC 6-7-1; may be revoked, by the department or

(B) tobacco certificate held by the retailer;

for the balance of the term thereof: for a period of time as determined by the department.

(2) Impose a civil penalty under IC 7.1-3-18.5.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration

C
o
p
y



fund established under IC 7.1-4-10-1.

SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 7.1-3-1.5-7; IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5; IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7; IC 24-3-2-7; IC 24-3-2-11."

Page 6, delete lines 12 through 13.

Page 6, line 35, after "IC 7.1-3-1.5" delete ",".

Page 7, line 37, delete "individual" and insert "**individuals**".

Page 7, after line 40, begin a new paragraph and insert:

"SECTION 42. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 27 as printed January 25, 2006.)

STUTZMAN, Chair

Committee Vote: yeas 10, nays 1.

C
o
p
y

